

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

CECIL OWENS,

Plaintiff,

v.

BLUESTEM BRANDS, INC.
d/b/a FINGERHUT

Defendant.

: Case No.
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COMPLAINT

CECIL OWENS (Plaintiff), by his attorneys, alleges the following against BLUESTEM BRANDS, INC. d/b/a FINGERHUT (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. 1692, *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
3. Because Defendant conducts business in North Carolina, personal jurisdiction is established.
4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PLAINTIFF'S COMPLAINT

1

PARTIES

5. Plaintiff is a natural person residing in Selma, Johnston County, North Carolina.
6. Defendant is a national corporation with a business office in Eden Prairie, Minnesota.
7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. In or around 2014, Defendant began constantly and consistently placing telephone calls to plaintiff in an attempt to collect a debt an alleged debt.
9. Upon information and belief, Plaintiff does not owe the debt Defendant is attempting to collect.
10. Defendant places telephone calls to Plaintiff on Plaintiff's cellular telephone at 682-554-28XX.
11. Defendant places telephone calls from numbers including, but not limited to, 800-503-2463, 800-503-2370, and 866-836-8987.
12. Per its prior business practices, each collection call placed by Defendant to Plaintiff was placed using an automatic telephone dialing system.
13. In or around October of 2014, Plaintiff called Defendant and spoke to Defendant's representative.
14. During the course of the telephone conversation in or around October 2014, Plaintiff requested that Defendant cease placing calls to his cellular telephone.
15. Plaintiff never provided Defendant with any consent, express, implicit, or otherwise, to place automated calls to his cellular telephone.
16. Even if any such consent was provided, Plaintiff revoked any consent, either explicitly or

implicitly, to receive automated telephone calls from Defendant on his cellular telephone in or around October 2014.

17. Despite Plaintiff's request to cease, Defendant placed at least forty-one (41) collection calls to Plaintiff.

COUNT I

DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

18. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).
19. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

20. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);
21. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);
22. All court costs, witness fees and other fees incurred; and
23. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff, CECIL OWENS, demands a jury trial in this cause of action.

Dated: March 4, 2015

RESPECTFULLY SUBMITTED,

By: s/ Shireen Hormozdi
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VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF NORTH CAROLINA)

Plaintiff, CECIL OWENS , states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, CECIL OWENS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

2-16-15

Date

Cecil Kent Owens
CECIL OWENS

PLAINTIFF'S COMPLAINT

5